

**REMARKS**

In the Office Action, the Examiner rejected claims 6 and 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,232,638 to *Thiessen et al.* ("*Thiessen*") in view of Japanese Patent No. 07-268767 to *Tsuneo*; rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *Thiessen* in view of *Tsuneo* and French Patent No. 2,764,185 to *Grefe*; rejected claims 6 and 8-11 under 35 U.S.C. § 103(a) as being unpatentable over *Grefe* in view of U.S. Patent No. 5,326,241 to *Rook et al.* ("*Rook*"), European Patent Application No. 0388120 to *Yoshinaga et al.* ("*Yoshinaga*") or one of U.S. Patent 4,610,678 to *Weisman et al.* ("*Weisman*") and U.S. Patent Application Publications No. 2002/0087129 to *Di Luccio et al.* ("*Di Luccio*"); rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over *Grefe* in view of *Rook*, *Yoshinaga*, one of *Weisman* or *Di Luccio*, U.S. 5,595,584 to *Loftus et al.* ("*Loftus*") and U.S. 4,604,313 to *McFarland et al.* ("*McFarland*"); rejected claims 6-8 and 10-11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,604,313 to *McFarland et al.* ("*McFarland*") in view of *Thiessen*, *Loftus*, and one of *Yoshinaga*, *Weisman* or *Di Luccio*; rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *McFarland* in view of *Thiessen*, *Loftus*, one of *Yoshinaga*, *Weisman* or *Di Luccio*, U.S. Patent 5,674,339 to *Groeger et al.* ("*Groeger*") and *Grefe*.

By this Amendment, Applicant amends the specification to correct typographical errors and improve clarity; cancels claims 1-5 and 12-17, and amends claims 6 and 8 to further distinguish the claimed subject matter over the applied prior art. Support for the

changes to claims 6 and 8 may be found at, for example, page 16, lines 8-16. No new matter has been added.

Claims 6-11 are pending in the above-captioned application.

I. Rejection of Claims 6 and 8 Under 35 U.S.C. § 103(a)

As Being Unpatentable Over *Thiessen* In View of *Tsuneo*.

*Thiessen* and *Tsuneo* cannot support a *prima facie* case that claims 6 and 8 are obvious because the cited references do not teach or suggest each and every element recited in claim 6-8, as amended.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference or references, taken alone or combined, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143 (8th ed. 2001, revised May 2003). Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the references in a manner resulting in the claimed invention. *Id.* Third, a reasonable expectation of success must exist. *Id.* Moreover, each of these requirements must “be found in the prior art, and not based on Applicant’s disclosure.” *Id.*

*Thiessen* discloses producing fibers by a rotary a rotary process in which a variety of additive materials may be introduced to the fibers. (Cols: 1:6-11 and 3:6-16.) However, *Thiessen* does not teach or suggest a “hygroscopic agent compris[ing] a

substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in claim 6.

*Tsuneo* apparently discloses a method for sticking functional particles to thermoplastic polymeric fibers. (Abstract.) *Tsuneo*, however, is silent as to the above-noted deficiency of *Thiessen*. Thus, *Thiessen* and *Tsuneo*, whether taken alone or in combination, fail to teach or suggest at least, a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in claim 6. Accordingly, *Thiessen* and *Tsuneo* cannot support a *prima facie* case for the rejection of claim 6 under 35 U.S.C. § 103(a). Applicant therefore requests that the Examiner reconsider and withdraw the rejection of claim 6 under 35 § U.S.C. § 103(a).

Claim 8, although of different scope than claim 6, recites similar features to those of claim 6. For example, claim 8 recites, *inter alia*, a “hygroscopic agent comprises a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance.” As described above with regard to claim 6, *Thiessen* and *Tsuneo* fail to teach or suggest at least this feature. Accordingly, for at least the reasons discussed above with regard to claim 6, *Thiessen* and *Tsuneo*, taken alone or in combination, cannot support a *prima facie* case for the rejection claim 8. Applicant therefore requests that the Examiner reconsider and withdraw the rejection of claim 8 under 35 § U.S.C. § 103(a).

II. Rejection of Claim 9 Under 35 U.S.C. § 103(a) As

Being Unpatentable Over *Thiessen* in View of *Tsuneo* and *Grefe*.

*Thiessen* in view of *Tsuneo* and *Grefe* cannot support a *prima facie* case that claim 9 is obvious under 35 § U.S.C. § 103(a) because the cited references do not teach or suggest each and every element recited in claim 9.

Claim 9 depends from claim 8 and, therefore includes all the limitations of claim 8. As noted above, *Thiessen* and *Tsuneo* fail to teach or suggest, a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in claim 8. Accordingly, *Thiessen* and *Tsuneo* also fail to teach at least this feature of claim 9.

The Examiner cites *Grefe* for its teaching of “heat-activate fibrous material in a nonwoven web before function particles are applied to the nonwoven web.” (Office Action, p. 4, para. 3.) However, *Grefe* does not disclose a “hygroscopic agent” as recited in claim 8, nor does the Examiner rely on *Grefe* for such teachings. Accordingly, *Grefe* fails to overcome the above-noted deficiencies of *Thiessen* and *Tsuneo*. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claim 9 under 35 § U.S.C. § 103(a).

III. Rejection of Claims 6 and 8-11 Under

35 U.S.C. § 103(a) As Being Unpatentable Over *Grefe*

In View of *Rook*, *Yoshinaga* or One of *Weisman* and *Di Luccio*.

*Grefe*, *Rook*, *Yoshinaga*, *Weisman* and *Di Luccio* cannot support a *prima facie* case that claims 6 and 8-11 are obvious under 35 § U.S.C. § 103(a) because the cited references do not teach or suggest each and every element recited in independent claims 6 and 8, as amended.

As noted above, *Grefe* fails to teach a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in independent amended claim 6. *Rook*, *Yoshinaga*, *Weisman* and *Di Luccio* fail to overcome these deficiencies of *Grefe*. In particular, the Examiner cites *Rook* for allegedly teaching of “forming thermoplastic fibers by centrifugal spinning process;” cites *Yoshinaga* for a teaching of blending SAP and a porous powder of silicon dioxide; and cites *Weisman* and *Di Luccio* for teaching the use of silica gel SAP to make an absorbent article. (Office Action, pp. 3:15 - 4:14.) However none of *Rook*, *Yoshinaga*, *Weisman*, or *Di Luccio* teaches a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in amended claim 6; nor does the Examiner rely on *Rook*, *Yoshinaga*, *Weisman*, or *Di Luccio* for such teachings

Since, *Grefe*, *Rook*, *Yoshinaga*, *Weisman*, or *Di Luccio*, whether taken along or in combination, fail to teach or suggest at least the above-noted feature of claim 6,

these references cannot support a *prima facie* case for the rejection of claim 6 under 35 U.S.C. § 103(a). Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claim 6 under 35 § U.S.C. § 103(a).

Claim 8, although of different scope than claim 6, recites similar features to those of claim 6. Accordingly, for at least the reasons discussed above with regard to claim 6, *Geffe, Rook, Yoshinaga, Weisman, or Di Luccio*, taken alone or in combination, cannot support a *prima facie* case of obviousness for claim 8. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claim 8 under 35 § U.S.C. § 103(a), as well as claims 9-11 at least due to these claims dependence from claim 8.

IV. Rejection of Claim 7 under 35 U.S.C. § 103(a)

As Being Unpatentable Over *Grefe* In View of *Rook*,

*Yoshinaga, Weisman or Di Luccio, Loftus and McFarland*.

*Grefe, Rook, Yoshinaga, Weisman or Di Luccio, Loftus and McFarland* cannot support a *prima facie* case that claim 7 is obvious under 35 § U.S.C. § 103(a) because the cited references do not teach or suggest each and every element recited in claim 7.

Claim 7 depends from claim 6 and, therefore includes all the limitations of claim 6. As noted above, *Grefe, Rook, Yoshinaga, Weisman and Di Luccio* fail to teach or suggest, a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as

recited in claim 6. Accordingly, *Grefe*, *Rook*, *Yoshinaga*, *Weisman* and *Di Luccio* also fail to teach at least this feature of claim 6.

The Examiner cites *Loftus* for its teaching of “centrifugally ejected steam of thermoplastic fibers.” (Office Action, p. 5:1-3.) In addition, the Examiner cites *McFarland* for its teaching of forming a multi-layer absorbent article from a series of melt-blown fiber stream[s]. (Office Action, p. 5:3-6.) However, neither *Loftus* nor *McFarland* teaches or suggests a “hygroscopic agent” as recited in claim 6, nor does the Examiner rely on *Loftus* and *McFarland* for such teachings. *Loftus* and *McFarland*, therefore, fails to overcome the above-noted deficiencies of *Geffe*, *Rook*, *Yoshinaga*, *Weisman* and *Di Luccio*. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claim 7 under 35 § U.S.C. § 103(a), as well as claim 9-11 at least due to these claims dependence from claim 8.

V. Rejection of Claims 6-8 and 10-11 Under 35 U.S.C. § 103(a)

As Being Unpatentable Over *McFarland* In View of *Thiessen*, *Loftus*,  
and One of *Yoshinaga*, *Weisman* or *Di Luccio*.

*McFarland* in view of *Thiessen*, *Loftus*, and one of *Yoshinaga*, *Weisman* or *Di Luccio* cannot support a *prima facie* case that claims 6 and 8-11 are obvious because the cited references do not teach or suggest each and every element recited in independent claims 6 and 8, as amended.

As discussed above, *McFarland*, *Thiessen*, *Loftus*, *Yoshinaga*, *Weisman* and *Di Luccio* each fail to teach or suggest a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in claims 6 and 8, as amended.

Claims 7 and 9-11 depend from claims 6 and 8, respectively and, therefore, include all the limitations of the independent claim from which claims 7 and 9-11 correspond. Since *McFarland*, *Thiessen*, *Loftus*, *Yoshinaga*, *Weisman* and *Di Luccio* fail to teach or suggest the “hygroscopic agent” recited claims 6 and 8, these reference also fail to teach this feature with regard to claims 7 and 9-11. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claims 7 and 9-11 under 35 § U.S.C. § 103(a).



VI. Rejection of Claims 9 under 35 U.S.C. § 103(a) As Being  
Unpatentable Over McFarland In View of Thiessen, Loftus, One of  
Yoshinaga, Weisman or Di Luccio, Groeger and Greffe.

As repeated above, *McFarland, Thiessen, Loftus, Yoshinaga, Weisman and Di Luccio* each fail to teach or suggest a “hygroscopic agent compris[ing] a substance having calcium oxide and porous particles of silicon dioxide adhering to the periphery of said substance,” as recited in independent claim 8, as amended. As also discussed above, *Groeger* and *Greffe* also fail to teach or suggest the above-noted feature. Accordingly, *McFarland, Thiessen, Loftus, Yoshinaga, Weisman Di Luccio, Groeger and Greffe*, whether taken along or in combination, fail to teach or suggest at least the above-noted feature of claim 6. Therefore, *Greffe, Rook, Yoshinaga, Weisman, or Di Luccio* cannot support a *prima facie* case for the rejection of claim 9 under 35 U.S.C. § 103(a).

Conclusion

In view of the foregoing amendments and remarks, Applicant submits that this claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant, therefore, requests the Examiner's reconsideration and reexamination of the application, and the timely allowance of claims 6-11.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: January 26, 2006

By: 

Steven L. Ashburn  
Reg. No. 56,636